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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/675,609	09/30/2003	Michael J. French	1056516	6334

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EXAMINER

RODRIGUEZ, WILLIAM H

ART UNIT PAPER NUMBER

3746

DATE MAILED: 09/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/675,609

Applicant(s)

FRENCH ET AL.

Examiner

William H. Rodriguez

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 97-106 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 97-106 are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.

- 4) ☒ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. Attached.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

### **DETAILED ACTION**

This office action replaces the office action sent to applicant on 8/8/06. The purpose of this office action is to provide an answer to the questions (see below) raised by applicant during a telephonic interview on 8/28/06:

- 1) Why claim 97 is now claimed to belong to class 320 and not 417/416 as stated in the restriction requirement sent on 5/9/06?
- 2) Could claim 96 be added into Group II of claims 98-106 since claim 96 was said to be classified in the same class as claims 98-106 (class 417/53)?

Claims 96 and 97 do not positively recite a particular structure of a pump but components (coil, switches/paths, etc) of an electrical circuit for actuating a device. The only instance where the word pump appears on these claims is in the preamble. However, the structure being claimed could be an electrical actuator comprising a coil and switches for any device not necessarily for a pump. For this reason, claims 96 and 97 are better classified in class 320 (electrical devices, circuits) rather than in 417/53 or 417/416 as previously stated. Class 417/416 is more specific to a pump where a particular structure of the pump is being claimed, particularly a reciprocating structure. Also, class 417/53 is for a method of operating a pump, where a particular pumping step and a structure of the pump is being claimed (i.e., pumping in a first direction, a pump casing, etc).

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Although claims 98-106 recite some electrical components, these claims do positively recite features more specific to a pump (i.e., a first pumping motion, a second pumping motion, a pump assembly, a capacitor providing power to the fuel injection device, produce motion in the first portion of the pump).

For the reasons stated above, the restriction (see below) is maintained and believe to be proper.

### ***Election/Restrictions***

1. This application contains claims directed to the following patentably distinct species of the claimed invention: **I)** Species of claim 97 drawn to a method of operating a device having a coil classified in class 320; and **II)** Species of claims 98-106 drawn to a method of operating a pump in class 417/53 (for claims 98-99 and 105-106) and 417/416 (for claims 100-104).

Species I vs. Species II, notice that the limitations “*a first, second and third electrical paths*” recited in the species of claim 97 are not part of the species of claims 98-106. Thus, the search required for Species I is not required for Species II, restriction for examination purposes as indicated is proper. Moreover, the method recited in claim 97 does not necessarily need to be for a pump but could be for any other device, there is not specific/particular structure of a pump being claimed.

Species II vs. Species I. The limitations “*first pumping motion, second pumping motion, motion of a first portion of the fuel pump in a first linear direction, and motion of a first portion of the fuel pump in a second linear direction*” recited in the species of claims 98-106 are not part of the species of claim 97. Thus, the search required for Species II is not required for Species I, restriction for examination purposes as indicated is proper.

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Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no claim is generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.


### ***Contact information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William H. Rodríguez whose telephone number is 571-272-4831. The examiner can normally be reached on Monday-Friday 7:30 am to 5:00 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Timothy S. Thorpe can be reached on 571-272-4444. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
William H. Rodriguez  
Primary Examiner  
Art Unit 3746

8/29/06